



CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH  
THE UNITED STATES POSTAL SERVICE AS FIRST-CLASS MAIL IN AN  
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PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450 ON 14 February 2005

Christina M. Doyle

NAME OF PERSON MAILING DOCUMENT

14 February 2005

DATE

Attorney Docket No. P51217

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Meek, *et al.*

Serial No.: 10/024,808

Group Art Unit No.: 1645

Filed: 19 December 2001

Examiner: Patricia Ann Duffy

For: Methods and Compounds for Modulating the Activity of Bacterial FabG

Commissioner for Patents  
Mail Stop: Petitions  
P.O. Box 1450  
Arlington, VA 22313-1450

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FEB 23 2005

OFFICE OF PETITIONS

PETITION TO ACCEPT AN UNINTENTIONAL DELAYED CLAIM FOR PRIORITY  
UNDER 35 U.S.C. 119(e)

In response to the telephonic conversation with Nancy Johnson of the Office of Petitions, Applicants request that this petition that was originally filed on May 26, 2004 and amendment be accepted. An amendment has been sent under separate cover.

Applicants also wish to resubmit the petition to revive that was faxed on June 21, 2004. The Applicants respectively request that both petitions be granted so that the Applicants can further the prosecution of continuation application 10/857,407.

Applicants received an Office Action in the above-identified application which was mailed on 26 November 2003. As the shortened statutory response time of three months has expired, Applicants enclose herein a copy of a Request for Three Month Extension of Time which has been sent under separate cover to Group Art Unit 1645 on 20 May 2004.

The Priority section of the Office Action notes that Applicants claimed priority to subject matter disclosed in a prior provisional application, however, had

failed to include a reference to the prior application by either inserting said reference as the first sentence of the specification, or by amendment. As this application is a utility filed under 35 U.S.C. 111(a) on or after 29 November 2000, the time limit for submitting such an amendment to the prior application has expired. Accordingly, Applicants file this Petition to request acceptance of an unintentional delay in the claim for priority and an amendment inserting said claim for priority as the first sentence of the specification under subsection 35 USC 119(e) of this application.

Pursuant to 35 U.S.C. 119(e) and 37 C.F.R. 1.78(a)(5), Applicants hereby claim the benefit of United States Provisional Application Serial Number 60/259,595, filed 03 January 2001. This claim to priority was originally noted on the Utility Patent Application Transmittal form filed on 19 December 2001.

Applicants hereby authorize the United States Patent and Trademark Office to charge Applicants' Deposit Account No. 19-2570 in the amount of \$1,330.00 for the required petition fee, and is authorized to charge any other fees that may be required for this petition to the same deposit account.

Applicants respectfully submit that the entire delay between the date the claim was due under 37 C.F.R. 1.78(a)(5), and the date the claim was filed was unintentional and was done without deceptive intent.

In view of the foregoing remarks, Applicants respectfully request the United States Patent and Trademark Office to grant this Petition and accept the delayed claim for priority. Applicants herein enclose a copy of a Continuation transmittal sheet which was filed in this matter by Express Mail on 26 May 2004. Should the United States Patent Office grant Applicants' enclosed petition, Applicants request that the Petitions branch notify the Office of Initial Patent Examination of the finding.

**Remarks**

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United State Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent which this verified statement is directed.

Respectfully submitted,



Jason C. Fedon  
Agent for Applicants  
Registration No. 48,138

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N:\ERG\APPS\IP51217\Petition to Accept Priority Claim.DOC



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PTO/SB/64 (11-03)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**Docket Number (Optional)  
P51217

First named inventor: Thomas Meek

Application No.: 10/024,808

Art Unit: 1645

Filed: 19 December 2001

Examiner: Patricia Ann Duffy

Title: Methods and Compounds for Modulating the Activity of Bacterial FabG

Attention: Office of Petitions

**Mail Stop Petition**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX: (703) 872-9306

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FEB 23 2005

**OFFICE OF PETITIONS**

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus an extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee --required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**☐ Small entity-fee \$\_\_\_\_\_ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.☒ Other than small entity - fee \$ 1330.00 (37 CFR 1.17(m))**2. Reply and/or fee**

A. The reply and/or fee to the above-noted Office action in

the form of a Continuation Application (identify type of reply):☒ has been filed previously on 26 May 2004.☐ is enclosed herewith.

B. The issue fee of \$\_\_\_\_\_.

☐ has been paid previously on \_\_\_\_\_.☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

### 3. Terminal disclaimer with disclaimer fee

- ☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

21 June 2004  
Date

Jason C. Fedon  
Signature

Telephone  
Number: (610)270-6150

Jason C. Fedon

Typed or printed name

709 Swedeland Road, Mailcode UW2220

Address

King of Prussia, PA 19406

Address

Enclosures: ☒ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay

☒ Other: Copy of Continuation application transmittal form; copy of postcard

### CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: **Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

☒ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

21 June 2004  
Date

Deborah L. Pishock  
Signature

Deborah L. Pishock

Type or printed name of person signing certificate

COPY

Application No. 10/024,808  
Filed: 19 December 2001

I hereby state:

(i). I am the agent currently responsible for United States Patent Application No. 10/024,808, for which a non-final rejection dated 26 November 2003 was received.

ii). In response to the above referenced non-final rejection, it was my intention to file a Petition to Accept Unintentional Delayed Claim for Priority under 35 U.S.C. 119(e) and a continuation application during the pendency of United States Patent Application No. 10/024,808 and to continue prosecution of the invention in the continuation application. It was not my intention to abandon United States Patent Application No. 10/024,808 unless and until co-pendency was established with the continuation application. To effect the continuation application I filed the following documents:

a) A three month extension of time in United States Patent Application No. 10/024,808 was filed on 26 May 2004, under a separate cover using a certificate of mailing.

b) A continuation application claiming priority through United States Patent Application 10/024,808 was signed for EXPRESS MAIL depositing on Wednesday, May 26, 2004. A return post card was included with the continuation application. A copy of the transmittal form, with the EXPRESS MAIL CERTIFICATE signed on 26 May 2004, is enclosed herewith. Also enclosed herewith is a copy of the returned post card indicating the application number and filing date of the continuation application.

(iii). On or about 10 June 2004 the return post card was received and indicated that the continuation application was assigned Application Number 10/857,407 and afforded a filing date of 28 May 2004. Administrative personnel realized the discrepancy in the date the application was signed (26 May 2004) and the date afforded the application (28 May 2004). Further investigation revealed that the EXPRESS MAIL package containing the continuation application was not deposited with the United States Post Office until 28 May 2004, thereby jeopardizing its claim to priority to United States Patent Application 10/024,808.

(iv). In order to preserve the claim to priority of the continuation application to United States Patent Application No. 10/024,808, applicants petition that United States Patent Application No. 10/024,808 be revived in order to establish co-pendency with continuation application No. 10/857,407.